

REMARKS

Claims 1-30 are pending in the application. Applicant respectfully requests reconsideration of this application.

Rejection of claims 1-2, 4, 9-12, 15, 20-21, and 23-27 under 35 U.S.C. § 102(e) as being anticipated by US 20030046704 (Laksono)

Applicant respectfully traverses the rejection of claims 1-2, 4, 9-12, 15, 20-21, and 23-27.

Applicant respectfully submits that Laksono does not anticipate, either expressly or inherently, each and every element as set forth in independent claims 1, 9, 20, and 24. For example, independent claims 1, 20, and 24 recite “reserving [(91)] a predetermined amount of bandwidth in [one or more multiplexers (21-24) of a node group] to future transcoding” and “routing [(93)] one or more subsequent new video [sessions] through [a] central transcoder (15) after all unreserved bandwidth [of a node group] is allocated” and independent claim 9 recites “reserving (91) a predetermined amount of bandwidth in a multiplexer (21-24) to future compression or transcoding” and “performing (93) transcoding or compression on one or more new channels after all unreserved bandwidth of the multiplexer (21-24) is allocated” which are not anticipated either expressly or inherently, in Laksono.

Laksono is directed towards a method for controlling access to a video system based on bandwidth consumption. See Laksono, Abstract. Laksono describes setting up a bandwidth threshold for every connection. At a particular time, if the bandwidth utilization of the connection is below the threshold then the video-on-demand (VOD) server provides the requested video program to the client through the connection. Otherwise, if the bandwidth utilization of the connection exceeds the threshold, then the VOD server provides a list of options to the user. See Laksono, paragraphs [0018] and [0024]. In contrast, Applicant’s independent claims 1, 9, 20, and 24 describe reserving a predetermined amount of bandwidth in a multiplexer for future transcoding. Laksono reserves bandwidth by setting threshold, for providing cost-viewing options to the client. Laksono nowhere shows or suggests reserving a predetermined amount of bandwidth in a multiplexer for future transcoding as described by Applicant’s independent claims 1, 9, 20, and 24.

Further, Laksono suggests that one of the options from the list provided to the client may be transcoding at increased fee, if the bandwidth utilization exceeds the threshold. Then

depending upon the client's choice, Laksono provides the video program to the client device. See Laksono, paragraph [0021]. In contrast, Applicant's independent claims 1, 20, and 24 describes routing the subsequent video sessions through a central transcoder after all unreserved bandwidth is allocated and Applicant's claim 9 describes performing transcoding or compression on a channel after all unreserved bandwidth of a multiplexer is allocated. Therefore, Laksono does not teach routing subsequent new video sessions through a central transcoder or performing transcoding on a channel, after all unreserved bandwidth of a node group is allocated as described by Applicant's independent claims 1, 9, 20, and 24.

Laksono also does not show or suggest "a central transcoder" as recited by Applicant's independent claims 1, 20, and 24. Therefore, "a central transcoder" is another missing limitation that is not taught by Laksono.

In view of the foregoing, Applicant respectfully submits that claims 1, 9, 20, and 24 are not anticipated by Laksono, and therefore the rejection of claims 1, 9, 20, and 24 under 35 U.S.C. § 102(e) should be withdrawn. Applicant requests that claims 1, 9, 20, and 24 may now be passed to allowance.

Dependent claims 2, 4, 10-12, 15, 21, and 23, 25-27 depend from, and include all the limitations of independent claims 1, 9, 20, and 24. Therefore, Applicant respectfully requests reconsideration of dependent claims 2, 4, 10-12, 15, 21, and 23, 25-27 and requests the withdrawal of the rejection.

Rejection of Claims 5-8 and 16-19 under 35 U.S.C. § 103(a) as being unpatentable over US 20030046704 (Laksono) in view of US 7020892 (Levesque)

As mentioned above, Applicant respectfully submits that Laksono does not disclose "reserving (91) a predetermined amount of bandwidth in [one or more multiplexers (21-24) of a node group] to future transcoding." Levesque describes a time-shifted video method in which the time-shifted video frames are delayed relative to the real-time video frames. And a real-time frame is paused during a transition from a real-time mode to a time-shifted mode. See Levesque, Abstract. Levesque fails to overcome the deficiency of Laksono in that Levesque also does not show or suggest the above-mentioned limitation.

Moreover, because Laksono is an **improper basis** for rejecting Applicant's claims, the combination of Laksono with Levesque or with other prior art references is also an **improper**

basis for rejecting Applicant's claims under 35 U.S.C. § 103. Laksono teaches away from "routing one or more subsequent new video sessions through a central transcoder" as recited by Applicant's independent claims 1, 20, and 24 and teaches away from "performing transcoding or compression on a channel after all unreserved bandwidth of a multiplexer is allocated" as recited by Applicant's claim 9. "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Kahn*, 441 F.3d 977, 990 (Fed. Cir. 2006) (quoting *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994)). Laksono teaches away from "routing one or more subsequent new video sessions through a central transcoder" as recited by Applicant's claims 1, 20, and 24 and "performing transcoding or compression on a channel after all unreserved bandwidth of a multiplexer is allocated" as recited by Applicant's claim 9 because Laksono offers the transcoding option only at an "increased fee." See Laksono, paragraph [0021]. Laksono suggests that transcoding is inherently disadvantageous, because Laksono suggests offsetting the disadvantages of transcoding by the benefit of an "increased fee," and thus Laksono teaches away from Applicant's claimed limitation of routing one or more subsequent new video sessions through a central transcoder or performing transcoding after all unreserved bandwidth is allocated. Therefore, even if Laksono were combined with Levesque or other prior art references, Applicant respectfully submits that Laksono **fails to provide a basis** for a rejection under 35 U.S.C. § 103, at least because Laksono teaches away from transcoding.

None of the cited references taken individually or in combination teach or suggest that which is claimed by Applicant's claims 1 and 9. Claims 5-8 and 16-19 depend on what are believed to be allowable independent claims 1 and 9, and thus are in condition for allowance. Reconsideration and withdrawal of the rejection of claims 5-8 and 16-19 under 35 U.S.C. § 103(a) as being unpatentable over Laksono in view of Levesque is respectfully requested.

Rejection of Claims 3, 13-14, 22, and 28-30 under 35 U.S.C. § 103(a) as being unpatentable over US 20030046704 (Laksono) in view of US 6996129 (Krause)

As mentioned above, Applicant respectfully submits that Laksono does not disclose "reserving (91) a predetermined amount of bandwidth in [one or more multiplexers (21-24) of a node group] to future transcoding." Krause describes an advanced multiplexer for on-demand

video distribution. The advanced multiplexer is capable of auto-discovery, channel-staggering, and compatibility with static virtual channel tables. See Krause, Abstract. Krause fails to overcome the deficiency of Laksono in that Krause also does not show or suggest the above-mentioned limitation.

Moreover, because Laksono is an **improper basis** for rejecting Applicant's claims, the combination of Laksono with Krause or with other prior art references is also an **improper basis** for rejecting Applicant's claims under 35 U.S.C. § 103. For at least the reasons discussed above, Laksono teaches away from "routing one or more subsequent new video sessions through a central transcoder" as recited by Applicant's independent claims 1, 20, and 24 and teaches away from "performing transcoding or compression on a channel after all unreserved bandwidth of a multiplexer is allocated" as recited by Applicant's claim 9. Therefore, even if Laksono were combined with Krause or other prior art references, Applicant respectfully submits that Laksono **fails to provide a basis** for a rejection under 35 U.S.C. § 103, at least because Laksono teaches away from transcoding.

None of the cited references taken individually or in combination teach or suggest that which is claimed by Applicant's claims 1, 9, 20, and 24. Claims 3, 13-14, 22, and 28-30 depend on what are believed to be allowable independent claims 1, 9, 20, and 24, and thus are in condition for allowance. Reconsideration and withdrawal of the rejection of claims 3, 13-14, 22, and 28-30 under 35 U.S.C. § 103(a) as being unpatentable over Laksono in view of Krause is respectfully requested.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

ARTHUR P. JOST, et al.

Date: December 5, 2008

BY: /Stewart M. Wiener/
Stewart M. Wiener
Registration No. 46,201
Attorney for Applicant

MOTOROLA, INC.
101 Tournament Drive
Horsham, PA 19044
Telephone: (215) 323-1811
Fax: (215) 323-1300